

NUNLEY • DAVIS • JOLLEY  
CLUCK • AELVOET

Andrew J. Aelvoet  
Cecil W. (Tres) Bain, III  
Jonathan B. Cluck  
Joe M. Davis\*\*  
Grady B. Jolley\*\*\*  
J. Ken Nunley\*\*♦

Of Counsel:  
William A. Brant

Board Certified Civil Trial Law\*  
Board Certified Personal Injury Trial Law\*\*  
American Board of Trial Advocates♦

A REGISTERED LIMITED LIABILITY PARTNERSHIP  
INCLUDING PROFESSIONAL CORPORATIONS

1580 South Main Street, Suite 200  
Boerne, Texas 78006-3308  
Phone (830) 816-3333  
Fax (830) 816-3388

e-mail: [info@texastrialaw.com](mailto:info@texastrialaw.com)

[www.texastrialaw.com](http://www.texastrialaw.com)

Offices Also in Hondo, Texas

J. Christopher Byrd  
Lisa L. Hill

\*\*George Ann Harpole Maixner  
Patricia M. Oviatt  
Kelly P. Rogers  
Chad M. Upham  
Kathy Hyatt Waldrop

Of Counsel:

\*\*\*Rhonda G. Jolley  
Jacquelyn W. Blott

\*\*\*Member of the College of the State Bar of Texas

July 7, 2006

Office of the Chief Clerk MC-105  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

*MWD 5334*  
**VIA TELECOPY @ 512-239-3311 and  
VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
7005 1820 0007 1470 0958**

RE: Protest for Proposed Permit No. WQ0014712001

Dear Ms. Castanuela:

We represent Edgar W. Blanch, Jr. ("Blanch") and have been authorized to protest and request a public hearing on the above-referenced application. Blanch is an affected person because he has a justifiable interest related to a legal right, duty and economic interest affected by this application.

The proposed permit will discharge water directly over and across Blanch's property, which has been developed into a high-quality, residential subdivision. Such discharge may physically affect the property or have a substantial impact on the value of the property.

Blanch is further opposed to the application because the petitioner's proposal appears to lack feasibility which would endanger the Blanch property in the future due to improper maintenance.

In conclusion, Blanch is an affected person and requests a contested hearing on the above-referenced application. The petitioner should be required to present evidence at a hearing to demonstrate that the legal requirements have been satisfied and this project is feasible.

Very truly yours,

NUNLEY DAVIS JOLLEY CLUCK AELVOET LLP

By:

*Grady B. Jolley*  
GRADY B. JOLLEY

BY: NUNLEY, JOLLEY &amp; DAVIS;

18308163388;

JUL - 7 - 06 11:22PM;

PAGE 2 2

# NUNLEY • DAVIS • JOLLEY CLUCK • AELVOET

A REGISTERED LIMITED LIABILITY PARTNERSHIP  
INCLUDING PROFESSIONAL CORPORATIONS

Andrew J. Aelvoet  
Cecil W. (Tres) Bain, III  
Jonathan B. Cluck  
Joe M. Davis\*\*  
Grady B. Jolley\*\*\*  
J. Ken Nunley\*\*

1580 South Main Street, Suite 200  
Boerne, Texas 78006-3308  
Phone (830) 816-3333  
Fax (830) 816-3388

e-mail [info@texastriallaw.com](mailto:info@texastriallaw.com)  
[www.texastriallaw.com](http://www.texastriallaw.com)  
Offices Also in Hondo, Texas

Of Counsel:  
William A. Brant

Board Certified Civil Trial Law  
Board Certified Personal Injury Trial Law\*\*  
American Board of Trial Advocates

J. Christopher Byrd  
Lisa Hill

\*\*George Ann Harpole  
Patricia M. Osatt  
Kelly P. Rogers  
Chad M. A. pham  
Kathy Hyatt Waldrop

Of Counsel:  
\*\*\*Rhonda G. Jolley  
Jacquelyn W. Blott

\*\*Texas Bar Foundation  
\*\*\*Member of the College of the State Bar of Texas

JUL 10 2006

BY

July 7, 2006

Office of the Chief Clerk MC-105  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**VIA TELECOPY @ 512-239-3311 and  
VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
7005 1820 0007 1470 0958**

RE: Protest for Proposed Permit No. WQ0014712001

Dear Ms. Castanuela:

We represent Edgar W. Blanch, Jr. ("Blanch") and have been authorized to protest and request a public hearing on the above-referenced application. Blanch is an affected person because he has a justifiable interest related to a legal right, duty and economic interest affected by this application.

The proposed permit will discharge water directly over and across Blanch's property, which has been developed into a high-quality, residential subdivision. Such discharge may physically affect the property or have a substantial impact on the value of the property.

Blanch is further opposed to the application because the petitioner's proposal appears to lack feasibility which would endanger the Blanch property in the future due to improper maintenance.

In conclusion, Blanch is an affected person and requests a contested hearing on the above referenced application. The petitioner should be required to present evidence at a hearing to demonstrate that the legal requirements have been satisfied and this project is feasible.

Very truly yours,

NUNLEY DAVIS JOLLEY CLUCK AELVOET LLP

By: 

GRADY B. JOLLEY

OCT-23-2006 MON 04:39 PM d2 'son lrc llo

FAX NO. 2 490041

P. 02/08

~~2006-0909-DIS~~

JOHN W. DAVIDSON  
ARTHUR TROILO  
TERRY TOPHAM  
CHERE TULL KINZIE  
R. GAINES GRIFFIN  
RICHARD E. HETTINGER  
PATRICK W. LINDNER  
IRWIN D. ZUCKER  
RICHARD D. O'NEIL  
J. MARK CRAUN

LAW OFFICES OF  
**DAVIDSON & TROILO**  
A PROFESSIONAL CORPORATION

SAN ANTONIO  
7550 W. H-10, SUITE 800, 78229-5815  
210/349-6484 • FAX: 210/349-0041

LEA A. REAM  
FRANK J. GARZA  
JAMES C. WOO  
RICHARD L. CROZIER  
R. JO RESER  
MARIA S. SANCHEZ  
DALBY FLEMING  
LISA M. GONZALES

AUSTIN OFFICE  
819 CONGRESS, SUITE 810, 78701  
512/469-0000 • FAX 512/473-2180

October 23, 2006

HR OPA

NOV 13 2006

BY DM

CHIEF CLERK'S OFFICE

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY**Via Fax (512) 475-4994**

Office of the Chief Clerk MC-105  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087

RE: Lerin Hills Ltd., Application for Water Quality Permit No.  
WQ0014712001; Comments and Request for Contested Case  
Hearing submitted at public meeting on October 24, 2006

Dear Ms. Castanuela:

We represent Mountainview at Tapatio, L.P., Tapatio Springs Real Estate Holdings, L.P., Kendall County Development Co., L.P., Tapatio Springs Service Company, and Kendall County Utility Company (all five clients jointly referred to as "Tapatio"). All of these companies protest the above-referenced application and request a contested case hearing. Each of these companies is an affected person because each has a personal justifiable interest related to a legal right, duty and economic interest affected by this application. All of these companies may be reached through the undersigned at the address and phone number shown in the letterhead. Tapatio previously submitted comments and request for contested case hearing in response to the notice of application.

Mountainview at Tapatio, Tapatio Springs Real Estate Holdings, and Kendall County Development Company were listed by the Applicant as affected landowners. However, the envelope from Applicant to these companies, sent by certified mail, contained only blank paper, not the notice of application. Tapatio asserts that Applicant's mailed notice was defective because these notices, and perhaps many others, were deficient. To the extent that the Applicant certifies that mailed notice was properly given to these entities, this certification is in error.

TCEQ Chief Clerk  
Protest of Lerin Hills STP  
October 23, 2006  
Page 2 of 7

Mountainview at Tapatio, Tapatio Springs Real Estate Holdings, and Kendall County Development Company were listed by the Applicant as affected landowners. Each of these companies is concerned about the effect that the proposed wastewater treatment plant and the proposed discharge of effluent will have on them and their property, especially as it relates to impact on the quantity and quality of groundwater and surface water and odors from lift stations, the plant, and the receiving stream. These companies developed property for residential purposes within the area and, to the extent that Applicant's activities adversely affect the environment in this area, such as the quality of the surface water and groundwater, and the people, plants, fish, and wildlife that depend upon the water, these companies will be adversely affected.

Mountainview at Tapatio, Tapatio Springs Real Estate Holdings, and Kendall County Development Company were listed by the Applicant as affected landowners. Some of the principals of these companies have been actively involved in developing and selling developed real estate in the area adjoining the proposed project. Based upon their experience, the Applicant's proposed build-out schedule stated in the Technical Report 1.1 (1)(b) is over zealous and in their opinion, the Applicant will not be able to meet its projected build-out schedule. The amount authorized to be discharged under the permit during the next five years is well beyond the reasonableness of the probable build-out schedule. In addition, the Applicant recently threatened to increase the density of the proposed development in retaliation for the local residents opposing the permit. Obviously, the Applicant does not know what his development plans are and further processing of the permit should be abated until the Applicant makes the necessary decisions regarding development density.

The Applicant's proposed treatment plant is intended to serve a single tract allegedly owned by the Applicant. Tapatio Springs Service Company owns and operates a sewage treatment plant with excess capacity and located within three miles of the proposed treatment facility. The Applicant's statement in the Technical Report that Tapatio's plant is at capacity is wrong and the statement regarding a 200 foot ridge ignores the fact that the Applicant plans to use many lift stations to transport raw sewage to Applicant's proposed plant. Tapatio Springs Service Company has an application pending with the TCEQ to merge with Kendall County Utility Company. The Applicant did not communicate with either Tapatio Springs Service Company or Kendall County Utility Company regarding the availability of service from this existing treatment plant. Tapatio Springs Service Company has agreed to provide wastewater service to an adjoining tract of land and a SOAH administrative law judge recently issued the recommendation that Tapatio Springs Service Company's application amend its sewer CCN to

TCEQ Chief Clerk  
Protest of Lerin Hills STP  
October 23, 2006  
Page 3 of 7

include the adjoining area be approved. For this reason, among others, the Applicant has failed to use reasonable means to encourage and promote regionalization or to justify the need for the proposed facility in the technical report.

Tapatio is further opposed to the application because, based upon information filed by the Applicant with the TCEQ relating to a petition for creation of a MUD, the Applicant proposes to construct its treatment facility within an easement used for electric power transmission. This information conflicts with the information filed with the application pertaining to the wastewater treatment plant. Tapatio is concerned that the construction or operation of the plant may cause an interruption of service that Tapatio needs to operate its water and wastewater facilities. Tapatio is concerned that the Applicant has made contradictory representations, under oath, to the TCEQ. To the extent the Applicant now plans to move the location of the treatment plant, the representations made by the Applicant in the MUD creation petition are inconsistent.

The Applicant's petition for creation of a proposed district includes cost projections to construct and operate a no-discharge permit. A no-discharge alternative is not presented as part of the Applicant's request for the pending permit. As stated previously, Tapatio is concerned about this and possibly other contradictions made by Applicant in two separate applications pending with the TCEQ.

Tapatio is also opposed to the permit because the Applicant does not possess the technical, financial, and managerial experience needed to construct and operate the proposed facility. The Applicant has expressed intent, in writing, to transfer ownership of the facility and permit to another entity, but that entity is not a co-Applicant.

The Applicant has publicly stated that the water supply for the project will be obtained solely from the Guadalupe Blanco River Authority. Tapatio is unaware whether a contract for this water supply has been signed, but the contract between GBRA and Tapatio contains the following provision, which must be included in all contracts per GBRA policy:

Customer agrees that the supply of water to Customer under this Agreement for use on any lands within a CCN in Kendall County shall be conditioned, to the extent allowed by law, on compliance, in the design, construction and operation of any building, facility, development or other improvement on such lands or other use of or activities on such lands or the treatment, disposal or reuse of wastewater generated on such lands, with

TCEQ Chief Clerk  
Protest of Lerin Hills STP  
October 23, 2006  
Page 4 of 7

all federal, state and local laws, rules and regulations relating to (i) protection of the quality of groundwaters or surface waters; (ii) recharge of aquifers; or (iii) drainage and flood control. Customer further agrees that, to the extent allowed by law, it will not supply any water supplied to Customer under this Agreement for use on any lands if and for so long as there is any material non-compliance, in the design, construction or operation of any building, facility, development or other improvement on such lands or other use of or activities on such lands or the treatment, disposal or reuse of wastewater generated on such lands, with any such laws, rules or regulations. At GBRA's request from time to time, Customer shall demonstrate to GBRA its compliance with the requirements of this Section 5.4. If Customer fails to comply with the requirements of this Section 5.4 with respect to Customer's supply of water for use on any lands, GBRA shall have available all remedies allowed by law including, without limitation, termination of this Agreement, or suspension or reduction of the supply of treated water under this Agreement until Customer demonstrates that compliance has been achieved; provided, however, GBRA will notify Customer of the violation and provide Customer a reasonable time to cure the violation. Customer will not be obligated to implement any requirement that GBRA does not require all other Project customers or participants to implement.

The Applicant's proposed project does not comply with the requirements of this provision because the treatment, disposal, and reuse of wastewater does not protect the quality of groundwater or surface waters, recharge of aquifers, or drainage and flood control. The application did not contain a geologic assessment of the receiving stream to determine whether geologic features forming conduits into the area groundwater supply

The proposed project is located within a priority groundwater management area designated by the TCEQ. Designation was due, in part, to the potential for groundwater contamination. The proposed permit does not adequately protect the groundwater supply from contamination.

The preliminary layout for the sanitary sewer system as filed by Applicant with its request to create a municipal utility district does not plainly show how wastewater collected within one watershed will be piped to the single wastewater plant. These plans do not show the measures that need to be taken or that will be taken to reduce the risk of these major lift stations from overflowing.

TCEQ Chief Clerk  
Protest of Lerin Hills STP  
October 23, 2006  
Page 5 of 7

The Applicant refers to Centerpoint Energy's reliability of service to explain the lack of needing back-up power. Centerpoint Energy does not serve the area, so back-up generator and alarms should be required. In addition, the Applicant refers to an "auto dialer" that monitors critical plant functions. This plant is located in a rural area, many miles away from any other plant that any certified operator hired by Applicant may operate and at least one hour from San Antonio. An "auto dialer" is not sufficient safeguard against the harm that will occur from any plant upset.

Due to the lack of proper notice and inconsistency in representations to the TCEQ, at this time Tapatio cannot describe any amendments to the application to address their concerns. Tapatio asks that the application be withdrawn or denied.

Tapatio submits that the following issues have been raised and not sufficiently addressed:

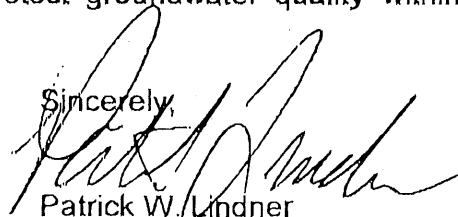
1. Whether the Applicant submitted a sufficiently complete application.
2. Whether the Applicant and the Chief Clerk complied with applicable notice requirements.
3. Whether the proposed facility and the proposed discharge will adversely impact surface water or groundwater, including drinking water and runoff issues.
4. Whether the proposed facility and discharge comply with the siting requirements in 20 TAC §309.12.
5. Whether the proposed facility will have controls and operators to prevent the discharge of improperly treated waste.
6. Whether the Applicant has used reasonable efforts to promote the policy of regionalization of wastewater service.
7. Whether the application should be denied under Texas Water Code Ann. §26.0282 based on need, including the availability of existing and proposed area wide or regional waste collection, treatment, and disposal systems.
8. Whether the proposed facility will produce nuisance odors, including whether an adequate buffer zone is proposed.

TCEQ Chief Clerk  
Protest of Lerin Hills STP  
October 23, 2006  
Page 6 of 7

9. Whether the proposed permit is protective of the health and safety of nearby residents.
10. Whether the proposed permit will protect the use and enjoyment of property by nearby residents.
11. Whether a bond is necessary to ensure the safe operation and possible closure of the facility.
12. The Applicant's lack of experience in the operation of wastewater treatment facilities.
13. The Applicant's inconsistent answers in the application for the discharge permit and the petition to create a district.
14. The lack of the proposed facility operator being an Applicant.
15. The probable amount of wastewater that the Applicant will need to discharge from the facility during the initial five-year term of the permit.
16. Whether the discharge consistent with the proposed permit will cause a violation of the general criteria of the stream standards as set forth in 30 TAC Section 307.4, including but not limited to the aesthetic parameters, nutrients, salinity, and aquatic life uses and dissolved oxygen.

In conclusion, each of the several companies identified in the initial paragraph of this letter is an affected person opposed to the application and requests a contested hearing on the above-referenced application. The petitioner should be required to present evidence at a hearing to demonstrate that the legal requirements have been satisfied. The information provided by the Applicant and the proposed permit is not sufficient to protect groundwater quality within this priority groundwater management area.

Sincerely,



Patrick W. Lindner

For the Firm



OCT-23-2006 MON 04:41 PM d: lson tre llo

FAX NO. 2 490041

P. 08/08

TCEQ Chief Clerk  
Protest of Lerin Hills STP  
October 23, 2006  
Page 7 of 7

PWL/re

cc: Richard Kammerman (Via U.S. Mail)  
Attorney for Lerin Hills, Ltd  
7200 North Mopac, Ste. 150  
Austin, Texas 78731  
Jay Parker (Via U.S. Mail)  
Michael Shalit (Via U.S. Mail)

JOHN W. DAVIDSON  
ARTHUR TROILO  
TERRY TOPHAM  
CHEREE TULL KINZIE  
R. GAINES GRIFFIN  
RICHARD E. HETTINGER  
PATRICK W. LINDNER  
IRWIN D. ZUCKER  
RICHARD D. O'NEIL  
J. MARK CRAUN

LAW OFFICES OF  
**DAVIDSON & TROILO**  
A PROFESSIONAL CORPORATION

SAN ANTONIO  
7550 W IH-10, SUITE 800, 78229-5815  
210/349-6484 • FAX: 210/349-0041

LEA A. REAM  
FRANK J. GARZA  
JAMES C. WOO  
RICHARD L. CROZIER  
R. JO RESER  
MARIA S. SANCHEZ  
DALBY FLEMING  
LISA M. GONZALES

AUSTIN OFFICE  
919 CONGRESS, SUITE 810, 78701  
512/469-6006 • FAX 512/473-2159

OPA *H*

OCT 24 2006

BY *jl*

October 23, 2006

*53346*

CHIEF CLERKS OFFICE

2006 OCT 24 AM 9:59

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

**Via Fax (512) 475-4994**

Office of the Chief Clerk MC-105  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087

RE: Lerin Hills Ltd.; Application for Water Quality Permit No.  
WQ0014712001; Comments and Request for Contested Case  
Hearing submitted at public meeting on October 24, 2006

Dear Ms. Castanuela:

We represent Mountainview at Tapatio, L.P., Tapatio Springs Real Estate Holdings, L.P., Kendall County Development Co., L.P., Tapatio Springs Service Company, and Kendall County Utility Company (all five clients jointly referred to as "Tapatio"). All of these companies protest the above-referenced application and request a contested case hearing. Each of these companies is an affected person because each has a personal justifiable interest related to a legal right, duty and economic interest affected by this application. All of these companies may be reached through the undersigned at the address and phone number shown in the letterhead. Tapatio previously submitted comments and request for contested case hearing in response to the notice of application.

Mountainview at Tapatio, Tapatio Springs Real Estate Holdings, and Kendall County Development Company were listed by the Applicant as affected landowners. However, the envelope from Applicant to these companies, sent by certified mail, contained only blank paper, not the notice of application. Tapatio asserts that Applicant's mailed notice was defective because these notices, and perhaps many others, were deficient. To the extent that the Applicant certifies that mailed notice was properly given to these entities, this certification is in error.

Mountainview at Tapatio, Tapatio Springs Real Estate Holdings, and Kendall County Development Company were listed by the Applicant as affected landowners. Each of these companies is concerned about the effect that the proposed wastewater treatment plant and the proposed discharge of effluent will have on them and their property, especially as it relates to impact on the quantity and quality of groundwater and surface water and odors from lift stations, the plant, and the receiving stream. These companies developed property for residential purposes within the area and, to the extent that Applicant's activities adversely affect the environment in this area, such as the quality of the surface water and groundwater, and the people, plants, fish, and wildlife that depend upon the water, these companies will be adversely affected.

Mountainview at Tapatio, Tapatio Springs Real Estate Holdings, and Kendall County Development Company were listed by the Applicant as affected landowners. Some of the principals of these companies have been actively involved in developing and selling developed real estate in the area adjoining the proposed project. Based upon their experience, the Applicant's proposed build-out schedule stated in the Technical Report 1.1 (1)(b) is over zealous and in their opinion, the Applicant will not be able to meet its projected build-out schedule. The amount authorized to be discharged under the permit during the next five years is well beyond the reasonableness of the probable build-out schedule. In addition, the Applicant recently threatened to increase the density of the proposed development in retaliation for the local residents opposing the permit. Obviously, the Applicant does not know what his development plans are and further processing of the permit should be abated until the Applicant makes the necessary decisions regarding development density.

The Applicant's proposed treatment plant is intended to serve a single tract allegedly owned by the Applicant. Tapatio Springs Service Company owns and operates a sewage treatment plant with excess capacity and located within three miles of the proposed treatment facility. The Applicant's statement in the Technical Report that Tapatio's plant is at capacity is wrong and the statement regarding a 200 foot ridge ignores the fact that the Applicant plans to use many lift stations to transport raw sewage to Applicant's proposed plant. Tapatio Springs Service Company has an application pending with the TCEQ to merge with Kendall County Utility Company. The Applicant did not communicate with either Tapatio Springs Service Company or Kendall County Utility Company regarding the availability of service from this existing treatment plant. Tapatio Springs Service Company has agreed to provide wastewater service to an adjoining tract of land and a SOAH administrative law judge recently issued the recommendation that Tapatio Springs Service Company's application amend its sewer CCN to

include the adjoining area be approved. For this reason, among others, the Applicant has failed to use reasonable means to encourage and promote regionalization or to justify the need for the proposed facility in the technical report.

Tapatio is further opposed to the application because, based upon information filed by the Applicant with the TCEQ relating to a petition for creation of a MUD, the Applicant proposes to construct its treatment facility within an easement used for electric power transmission. This information conflicts with the information filed with the application pertaining to the wastewater treatment plant. Tapatio is concerned that the construction or operation of the plant may cause an interruption of service that Tapatio needs to operate its water and wastewater facilities. Tapatio is concerned that the Applicant has made contradictory representations, under oath, to the TCEQ. To the extent the Applicant now plans to move the location of the treatment plant, the representations made by the Applicant in the MUD creation petition are inconsistent.

The Applicant's petition for creation of a proposed district includes cost projections to construct and operate a no-discharge permit. A no-discharge alternative is not presented as part of the Applicant's request for the pending permit. As stated previously, Tapatio is concerned about this and possibly other contradictions made by Applicant in two separate applications pending with the TCEQ.

Tapatio is also opposed to the permit because the Applicant does not possess the technical, financial, and managerial experience needed to construct and operate the proposed facility. The Applicant has expressed intent, in writing, to transfer ownership of the facility and permit to another entity, but that entity is not a co-Applicant.

The Applicant has publicly stated that the water supply for the project will be obtained solely from the Guadalupe Blanco River Authority. Tapatio is unaware whether a contract for this water supply has been signed, but the contract between GBRA and Tapatio contains the following provision, which must be included in all contracts per GBRA policy:

Customer agrees that the supply of water to Customer under this Agreement for use on any lands within a CCN in Kendall County shall be conditioned, to the extent allowed by law, on compliance, in the design, construction and operation of any building, facility, development or other improvement on such lands or other use of or activities on such lands or the treatment, disposal or reuse of wastewater generated on such lands, with

all federal, state and local laws, rules and regulations relating to (i) protection of the quality of groundwaters or surface waters; (ii) recharge of aquifers; or (iii) drainage and flood control. Customer further agrees that, to the extent allowed by law, it will not supply any water supplied to Customer under this Agreement for use on any lands if and for so long as there is any material non-compliance, in the design, construction or operation of any building, facility, development or other improvement on such lands or other use of or activities on such lands or the treatment, disposal or reuse of wastewater generated on such lands, with any such laws, rules or regulations. At GBRA's request from time to time, Customer shall demonstrate to GBRA its compliance with the requirements of this Section 5.4. If Customer fails to comply with the requirements of this Section 5.4 with respect to Customer's supply of water for use on any lands, GBRA shall have available all remedies allowed by law including, without limitation, termination of this Agreement, or suspension or reduction of the supply of treated water under this Agreement until Customer demonstrates that compliance has been achieved; provided, however, GBRA will notify Customer of the violation and provide Customer a reasonable time to cure the violation. Customer will not be obligated to implement any requirement that GBRA does not require all other Project customers or participants to implement.

The Applicant's proposed project does not comply with the requirements of this provision because the treatment, disposal, and reuse of wastewater does not protect the quality of groundwater or surface waters, recharge of aquifers, or drainage and flood control. The application did not contain a geologic assessment of the receiving stream to determine whether geologic features forming conduits into the area groundwater supply.

The proposed project is located within a priority groundwater management area designated by the TCEQ. Designation was due, in part, to the potential for groundwater contamination. The proposed permit does not adequately protect the groundwater supply from contamination.

The preliminary layout for the sanitary sewer system as filed by Applicant with its request to create a municipal utility district does not plainly show how wastewater collected within one watershed will be piped to the single wastewater plant. These plans do not show the measures that need to be taken or that will be taken to reduce the risk of these major lift stations from overflowing.

The Applicant refers to Centerpoint Energy's reliability of service to explain the lack of needing back-up power. Centerpoint Energy does not serve the area, so back-up generator and alarms should be required. In addition, the Applicant refers to an "auto dialer" that monitors critical plant functions. This plant is located in a rural area, many miles away from any other plant that any certified operator hired by Applicant may operate and at least one hour from San Antonio. An "auto dialer" is not sufficient safeguard against the harm that will occur from any plant upset.

Due to the lack of proper notice and inconsistency in representations to the TCEQ, at this time Tapatio cannot describe any amendments to the application to address their concerns. Tapatio asks that the application be withdrawn or denied.

Tapatio submits that the following issues have been raised and not sufficiently addressed:

1. Whether the Applicant submitted a sufficiently complete application.
2. Whether the Applicant and the Chief Clerk complied with applicable notice requirements.
3. Whether the proposed facility and the proposed discharge will adversely impact surface water or groundwater, including drinking water and runoff issues.
4. Whether the proposed facility and discharge comply with the siting requirements in 20 TAC §309.12.
5. Whether the proposed facility will have controls and operators to prevent the discharge of improperly treated waste.
6. Whether the Applicant has used reasonable efforts to promote the policy of regionalization of wastewater service.
7. Whether the application should be denied under Texas Water Code Ann. §26.0282 based on need, including the availability of existing and proposed area wide or regional waste collection, treatment, and disposal systems.
8. Whether the proposed facility will produce nuisance odors, including whether an adequate buffer zone is proposed.

CHIEF CLERK'S OFFICE

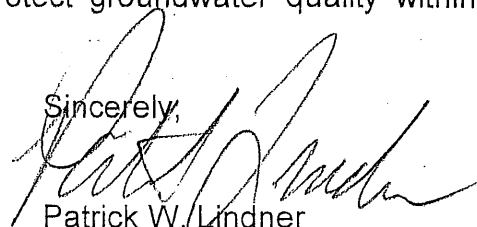
OCT 24 11:00

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

9. Whether the proposed permit is protective of the health and safety of nearby residents.
10. Whether the proposed permit will protect the use and enjoyment of property by nearby residents.
11. Whether a bond is necessary to ensure the safe operation and possible closure of the facility.
12. The Applicant's lack of experience in the operation of wastewater treatment facilities.
13. The Applicant's inconsistent answers in the application for the discharge permit and the petition to create a district.
14. The lack of the proposed facility operator being an Applicant.
15. The probable amount of wastewater that the Applicant will need to discharge from the facility during the initial five-year term of the permit.
16. Whether the discharge consistent with the proposed permit will cause a violation of the general criteria of the stream standards as set forth in 30 TAC Section 307.4, including but not limited to the aesthetic parameters, nutrients, salinity, and aquatic life uses and dissolved oxygen.

In conclusion, each of the several companies identified in the initial paragraph of this letter is an affected person opposed to the application and requests a contested hearing on the above-referenced application. The petitioner should be required to present evidence at a hearing to demonstrate that the legal requirements have been satisfied. The information provided by the Applicant and the proposed permit is not sufficient to protect groundwater quality within this priority groundwater management area.

Sincerely,



Patrick W. Lindner  
For the Firm

TCEQ Chief Clerk  
Protest of Lerin Hills STP  
October 23, 2006  
Page 7 of 7

PWL/re

cc: Richard Kammerman (Via U.S. Mail)  
Attorney for Lerin Hills, Ltd.  
7200 North Mopac, Ste. 150  
Austin, Texas 78731  
Jay Parker (Via U.S. Mail)  
Michael Shalit (Via U.S. Mail)



JOHN W. DAVIDSON  
ARTHUR TROILO  
TERRY TOPHAM  
CHEREE YULL KINZIE  
R. GAINES GRIFFIN  
RICHARD E. HETTINGER  
PATRICK W. LINDNER  
IRWIN D. ZUCKER  
RICHARD D. O'NEIL  
J. MARK CRAUN

LAW OFFICES OF  
**DAVIDSON & TROILO**

A PROFESSIONAL CORPORATION

SAN ANTONIO  
7550 W IH-10, SUITE 800, 78229-5815  
210/348-6484 • FAX: 210/349-0041

LEA A. REAM  
FRANK J. GARZA  
JAMES C. WOO  
RICHARD L. CROZIER  
R. JO RESER  
MARIA S. SANCHEZ  
DALBY FLEMING  
LISA M. GONZALES  
RENEE R. HOLLANDER

AUSTIN OFFICE  
810 CONGRESS, SUITE 810 78701  
512/489-6000 • FAX 512/489-6001

OPA

JUN 27 2006

BY js

June 26, 2006

Office of the Chief Clerk MC-105 via fax 512-239-3311 and certified mail  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087

RE: Lerin Hills Ltd.; Application for Water Quality Permit No. WQ0014712001

Dear Ms. Castanuela:

We represent Mountainview at Tapatio, L.P., Tapatio Springs Real Estate Holdings, L.P., Kendall County Development Co., L.P., Tapatio Springs Service Company, and Kendall County Utility Company (all five clients jointly referred to as "Tapatio"). All of these companies protest the above-referenced application and request a contested case hearing. Each of these companies is an affected person because each has a personal justifiable interest related to a legal right, duty and economic interest affected by this application. All of these companies may be reached through the undersigned at the address and phone number shown in the letterhead.

Mountainview at Tapatio, Tapatio Springs Real Estate Holdings, and Kendall County Development Company were listed by the applicant as affected landowners. However, the envelope from applicant to these companies, sent by certified mail, contained only blank paper. Tapatio asserts that applicant's mailed notice was defective because these notices, and perhaps many others, were deficient. To the extent that the applicant certifies that mailed notice was properly given to these entities, this certification is in error.

Mountainview at Tapatio, Tapatio Springs Real Estate Holdings, and Kendall County Development Company were listed by the applicant as affected landowners. Each of these companies is concerned about the effect that the proposed wastewater treatment plant and the proposed discharge of effluent, will have on them and their property, especially as it relates to impact on the quantity and quality of groundwater and surface water and odors from lift stations, the plant, and the receiving stream. These companies

Mc

TCEQ Chief Clerk  
June 26, 2006  
Page 2 of 4

developed property for residential purposes within the area and, to the extent, that applicant's activities adversely effect the environment in this area, such as the quality of the water and the plants, fish, and wildlife that depend upon the water, these companies will be adversely affected.

The applicant's proposed treatment plant is intended to serve a single tract owned by the applicant. Tapatio Springs Service Company owns and operates a sewage treatment plant located within three miles of the proposed treatment facility which is used to provide service within the sewer utility CCN issued by the TCEQ. Tapatio Springs Service Company has an application pending with the TCEQ to merge with Kendall County Utility Company. The applicant did not communicate with either Tapatio Springs Service Company or Kendall County Utility Company regarding the availability of service from this existing treatment plant. For this reason, among others, the applicant has failed to justify the need for the proposed facility in the technical report.

Tapatio is further opposed to the application because, based upon information filed by the applicant with the TCEQ relating to a petition for creation of a MUD, the applicant proposes to construct its treatment facility within an easement used for electric power transmission. This information conflicts with the information filed with the application pertaining to the wastewater treatment plant. Tapatio is concerned that the construction or operation of the plant may cause an interruption of service that Tapatio needs to operate its water and wastewater facilities. Tapatio is concerned that the applicant has made contradictory representations, under oath, to the TCEQ. To the extent the applicant now plans to move the location of the treatment plant, the representations made by the applicant in the MUD creation petition are inconsistent.

The applicant's petition for creation of a proposed district includes cost projections to construct and operate a no-discharge permit. A no-discharge alternative is not presented as part of the applicant's request for the pending permit. As stated previously, Tapatio is concerned about this and possibly other contradictions made by applicant in two separate applications pending with the TCEQ.

Tapatio is also opposed to the permit because the applicant does not possess the technical, financial, and managerial experience needed to construct and operate the proposed facility. The applicant has expressed intent, in writing, to transfer ownership of the facility and permit to another entity, but that entity is not a co-applicant.

The applicant has publicly stated that the water supply for the project will be obtained solely from the Guadalupe Blanco River Authority. Tapatio is unaware whether a contract for this water supply has been signed, but the contract between GBRA and Tapatio contains the following provision, which must be included in all contracts per GBRA policy:

TCEQ Chief Clerk

June 26, 2006

Page 3 of 4

Customer agrees that the supply of water to Customer under this Agreement for use on any lands within a CCN in Kendall County shall be conditioned, to the extent allowed by law, on compliance, in the design, construction and operation of any building, facility, development or other improvement on such lands or other use of or activities on such lands or the treatment, disposal or reuse of wastewater generated on such lands, with all federal, state and local laws, rules and regulations relating to (i) protection of the quality of groundwaters or surface waters; (ii) recharge of aquifers; or (iii) drainage and flood control. Customer further agrees that, to the extent allowed by law, it will not supply any water supplied to Customer under this Agreement for use on any lands if and for so long as there is any material non-compliance, in the design, construction or operation of any building, facility, development or other improvement on such lands or other use of or activities on such lands or the treatment, disposal or reuse of wastewater generated on such lands, with any such laws, rules or regulations. At GBRA's request from time to time, Customer shall demonstrate to GBRA its compliance with the requirements of this Section 5.4. If Customer fails to comply with the requirements of this Section 5.4 with respect to Customer's supply of water for use on any lands, GBRA shall have available all remedies allowed by law including, without limitation, termination of this Agreement, or suspension or reduction of the supply of treated water under this Agreement until Customer demonstrates that compliance has been achieved; provided, however, GBRA will notify Customer of the violation and provide Customer a reasonable time to cure the violation. Customer will not be obligated to implement any requirement that GBRA does not require all other Project customers or participants to implement.

The applicant's proposed project does not comply with the requirements of this provision because the treatment, disposal, and reuse of wastewater does not protect the quality of groundwater or surface waters, recharge of aquifers, or drainage and flood control.

The preliminary layout for the sanitary sewer system as filed by applicant with its request to create a municipal utility district does not plainly show how wastewater collected within one watershed will be piped to the single wastewater plant. These plans do not show the measures that need to be taken or that will be taken to reduce the risk of these major lift stations from overflowing.

Due to the lack of proper notice and inconsistency in representations to the TCEQ, at this time Tapatio cannot describe any amendments to the application to address their concerns. Tapatio asks that the application be withdrawn or denied.

In conclusion, each of the several companies identified in the initial paragraph of this letter is an affected person opposed to the application and requests a contested hearing on the above-referenced application. The petitioner should be required to present evidence at a hearing to demonstrate that the legal requirements have been satisfied and this project

JUN-26-2006 MON 03:13 PM DAVI N &amp; TROILO

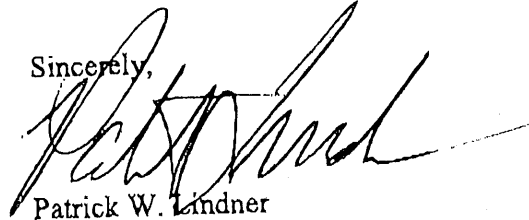
FAX NO. 210 : 0041

05

TCEQ Chief Clerk  
June 26, 2006  
Page 4 of 4

is feasible and practicable and is necessary and would be a benefit to all or any part of the land proposed to be included in the district.

Sincerely,



Patrick W. Lindner  
For the Firm

cc:

Richard Kammerman, Attorney for Lerin Hills, Ltd., 7200 North Mopac, Ste. 150,  
Austin Texas 78731

Jay Parker

Michael Shalit

David Welsch, GBRA

PWL/ep

JOHN W. DAVIDSON  
ARTHUR TROILO  
TERRY TOPHAM  
CHEREE TULL KINZIE  
R. GAINES GRIFFIN  
RICHARD E. HETTINGER  
PATRICK W. LINDNER  
IRWIN D. ZUCKER  
RICHARD D. O'NEIL  
J. MARK CRAUN

LAW OFFICES OF  
**DAVIDSON & TROILO**  
A PROFESSIONAL CORPORATION

SAN ANTONIO  
7550 W IH-10, SUITE 800, 78229-5815  
210/349-6484 • FAX: 210/349-0041

LEA A. REAM  
FRANK J. GARZA  
JAMES C. WOO  
RICHARD L. CROZIER  
R. JO RESER  
MARIA S. SANCHEZ  
DALBY FLEMING  
LISA M. GONZALES  
RENEE R. HOLLANDER

AUSTIN OFFICE  
919 CONGRESS, SUITE 810, 78701  
512/469-6006 • FAX 512/473-2159

June 26, 2006

HR OPA  
JUN 29 2006

BY

CHIEF CLERKS OFFICE

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Office of the Chief Clerk MC-105 via fax 512-239-3311 and certified mail  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087

RE: Lerin Hills Ltd.; Application for Water Quality Permit No. WQ0014712001

Dear Ms. Castanuela:

We represent Mountainview at Tapatio, L.P., Tapatio Springs Real Estate Holdings, L.P., Kendall County Development Co., L.P., Tapatio Springs Service Company, and Kendall County Utility Company (all five clients jointly referred to as "Tapatio"). All of these companies protest the above-referenced application and request a contested case hearing. Each of these companies is an affected person because each has a personal justifiable interest related to a legal right, duty and economic interest affected by this application. All of these companies may be reached through the undersigned at the address and phone number shown in the letterhead.

Mountainview at Tapatio, Tapatio Springs Real Estate Holdings, and Kendall County Development Company were listed by the applicant as affected landowners. However, the envelope from applicant to these companies, sent by certified mail, contained only blank paper. Tapatio asserts that applicant's mailed notice was defective because these notices, and perhaps many others, were deficient. To the extent that the applicant certifies that mailed notice was properly given to these entities, this certification is in error.

Mountainview at Tapatio, Tapatio Springs Real Estate Holdings, and Kendall County Development Company were listed by the applicant as affected landowners. Each of these companies is concerned about the effect that the proposed wastewater treatment plant and the proposed discharge of effluent, will have on them and their property, especially as it relates to impact on the quantity and quality of groundwater and surface water and odors from lift stations, the plant, and the receiving stream. These companies

MC

developed property for residential purposes within the area and, to the extent, that applicant's activities adversely effect the environment in this area, such as the quality of the water and the plants, fish, and wildlife that depend upon the water, these companies will be adversely affected.

The applicant's proposed treatment plant is intended to serve a single tract owned by the applicant. Tapatio Springs Service Company owns and operates a sewage treatment plant located within three miles of the proposed treatment facility which is used to provide service within the sewer utility CCN issued by the TCEQ. Tapatio Springs Service Company has an application pending with the TCEQ to merge with Kendall County Utility Company. The applicant did not communicate with either Tapatio Springs Service Company or Kendall County Utility Company regarding the availability of service from this existing treatment plant. For this reason, among others, the applicant has failed to justify the need for the proposed facility in the technical report.

Tapatio is further opposed to the application because, based upon information filed by the applicant with the TCEQ relating to a petition for creation of a MUD, the applicant proposes to construct its treatment facility within an easement used for electric power transmission. This information conflicts with the information filed with the application pertaining to the wastewater treatment plant. Tapatio is concerned that the construction or operation of the plant may cause an interruption of service that Tapatio needs to operate its water and wastewater facilities. Tapatio is concerned that the applicant has made contradictory representations, under oath, to the TCEQ. To the extent the applicant now plans to move the location of the treatment plant, the representations made by the applicant in the MUD creation petition are inconsistent.

The applicant's petition for creation of a proposed district includes cost projections to construct and operate a no-discharge permit. A no-discharge alternative is not presented as part of the applicant's request for the pending permit. As stated previously, Tapatio is concerned about this and possibly other contradictions made by applicant in two separate applications pending with the TCEQ.

Tapatio is also opposed to the permit because the applicant does not possess the technical, financial, and managerial experience needed to construct and operate the proposed facility. The applicant has expressed intent, in writing, to transfer ownership of the facility and permit to another entity, but that entity is not a co-applicant.

The applicant has publicly stated that the water supply for the project will be obtained solely from the Guadalupe Blanco River Authority. Tapatio is unaware whether a contract for this water supply has been signed, but the contract between GBRA and Tapatio contains the following provision, which must be included in all contracts per GBRA policy:

Customer agrees that the supply of water to Customer under this Agreement for use on any lands within a CCN in Kendall County shall be conditioned, to the extent allowed by law, on compliance, in the design, construction and operation of any building, facility, development or other improvement on such lands or other use of or activities on such lands or the treatment, disposal or reuse of wastewater generated on such lands, with all federal, state and local laws, rules and regulations relating to (i) protection of the quality of groundwaters or surface waters; (ii) recharge of aquifers; or (iii) drainage and flood control. Customer further agrees that, to the extent allowed by law, it will not supply any water supplied to Customer under this Agreement for use on any lands if and for so long as there is any material non-compliance, in the design, construction or operation of any building, facility, development or other improvement on such lands or other use of or activities on such lands or the treatment, disposal or reuse of wastewater generated on such lands, with any such laws, rules or regulations. At GBRA's request from time to time, Customer shall demonstrate to GBRA its compliance with the requirements of this Section 5.4. If Customer fails to comply with the requirements of this Section 5.4 with respect to Customer's supply of water for use on any lands, GBRA shall have available all remedies allowed by law including, without limitation, termination of this Agreement, or suspension or reduction of the supply of treated water under this Agreement until Customer demonstrates that compliance has been achieved; provided, however, GBRA will notify Customer of the violation and provide Customer a reasonable time to cure the violation. Customer will not be obligated to implement any requirement that GBRA does not require all other Project customers or participants to implement.

The applicant's proposed project does not comply with the requirements of this provision because the treatment, disposal, and reuse of wastewater does not protect the quality of groundwater or surface waters, recharge of aquifers, or drainage and flood control.

The preliminary layout for the sanitary sewer system as filed by applicant with its request to create a municipal utility district does not plainly show how wastewater collected within one watershed will be piped to the single wastewater plant. These plans do not show the measures that need to be taken or that will be taken to reduce the risk of these major lift stations from overflowing.

Due to the lack of proper notice and inconsistency in representations to the TCEQ, at this time Tapatio cannot describe any amendments to the application to address their concerns. Tapatio asks that the application be withdrawn or denied.

In conclusion, each of the several companies identified in the initial paragraph of this letter is an affected person opposed to the application and requests a contested hearing on the above-referenced application. The petitioner should be required to present evidence at a hearing to demonstrate that the legal requirements have been satisfied and this project

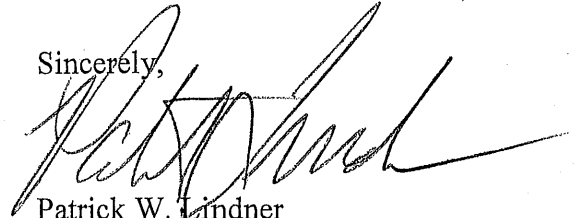
TCEQ Chief Clerk

June 26, 2006

Page 4 of 4

is feasible and practicable and is necessary and would be a benefit to all or any part of the land proposed to be included in the district.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick W. Lindner", written over a horizontal line.

Patrick W. Lindner  
For the Firm

cc:

Richard Kammerman, Attorney for Lerin Hills, Ltd., 7200 North Mopac, Ste. 150,  
Austin Texas 78731

Jay Parker

Michael Shalit

David Welsch, GBRA

PWL/ep



# TCEQ Public Meeting Form

Tuesday, October 24, 2006

Lerin Hills, Ltd.

Proposed TPDES Permit For Municipal Wastewater

Proposed Permit No. WQ00147121001

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2006 OCT 26 AM 11:05

CHIEF CLERKS OFFICE

PLEASE PRINT:

Name:

Patrick Lindner

Address:

7550 IH 10 West, Ste 800

City/State:

San Antonio, TX

Zip:

78229

Phone:

(210) 442-2310



Please add me to the mailing list.

Are you here today representing a municipality, legislator, agency, or group?

☐ Yes

☒ No

If yes, which one?

Attorney represents Tapatio Springs Service Co, Kendall County  
Utility Company, Tapatio Springs Service Company (ac) Estate  
Holdings, Kendall  
County Development Co, Mountain  
@ Tapatio

IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ☒ BELOW



I wish to provide formal oral comments.



I wish to provide formal written comments at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

OPA RECEIVED

OCT 24 2006

AT PUBLIC MEETING

Please give this to the person at the information table. Thank you.

(2) 11/1

JOHN W. DAVIDSON  
ARTHUR TROILO  
TERRY TOPHAM  
CHEREE TULL KINZIE  
R. GAINES GRIFFIN  
RICHARD E. HETTINGER  
PATRICK W. LINDNER  
IRWIN D. ZUCKER  
RICHARD D. O'NEIL  
J. MARK CRAUN

LAW OFFICES OF  
**DAVIDSON & TROILO**  
A PROFESSIONAL CORPORATION

SAN ANTONIO  
7550 W IH-10, SUITE 800, 78229-5815  
210/349-6484 • FAX: 210/349-0041

LEA A. REAM  
FRANK J. GARZA  
JAMES C. WOO  
RICHARD L. CROZIER  
R. JO RESER  
MARIA S. SANCHEZ  
DALBY FLEMING  
LISA M. GONZALES

AUSTIN OFFICE  
919 CONGRESS, SUITE 810, 78701  
512/469-6006 • FAX 512/473-2159

October 23, 2006

OPA RECEIVED

OCT 24 2006

AT PUBLIC MEETING

**Via Fax (512) 475-4994**

Office of the Chief Clerk MC-105  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087

CHIEF CLERKS OFFICE

2006 OCT 26 AM 11:05

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

RE: Lerin Hills Ltd.; Application for Water Quality Permit No. WQ0014712001; Comments and Request for Contested Case Hearing submitted at public meeting on October 24, 2006

Dear Ms. Castanuela:

We represent Mountainview at Tapatio, L.P., Tapatio Springs Real Estate Holdings, L.P., Kendall County Development Co., L.P., Tapatio Springs Service Company, and Kendall County Utility Company (all five clients jointly referred to as "Tapatio"). All of these companies protest the above-referenced application and request a contested case hearing. Each of these companies is an affected person because each has a personal justifiable interest related to a legal right, duty and economic interest affected by this application. All of these companies may be reached through the undersigned at the address and phone number shown in the letterhead. Tapatio previously submitted comments and request for contested case hearing in response to the notice of application.

Mountainview at Tapatio, Tapatio Springs Real Estate Holdings, and Kendall County Development Company were listed by the Applicant as affected landowners. However, the envelope from Applicant to these companies, sent by certified mail, contained only blank paper, not the notice of application. Tapatio asserts that Applicant's mailed notice was defective because these notices, and perhaps many others, were deficient. To the extent that the Applicant certifies that mailed notice was properly given to these entities, this certification is in error.

*CM*

Mountainview at Tapatio, Tapatio Springs Real Estate Holdings, and Kendall County Development Company were listed by the Applicant as affected landowners. Each of these companies is concerned about the effect that the proposed wastewater treatment plant and the proposed discharge of effluent will have on them and their property, especially as it relates to impact on the quantity and quality of groundwater and surface water and odors from lift stations, the plant, and the receiving stream. These companies developed property for residential purposes within the area and, to the extent that Applicant's activities adversely affect the environment in this area, such as the quality of the surface water and groundwater, and the people, plants, fish, and wildlife that depend upon the water, these companies will be adversely affected.

Mountainview at Tapatio, Tapatio Springs Real Estate Holdings, and Kendall County Development Company were listed by the Applicant as affected landowners. Some of the principals of these companies have been actively involved in developing and selling developed real estate in the area adjoining the proposed project. Based upon their experience, the Applicant's proposed build-out schedule stated in the Technical Report 1.1 (1)(b) is over zealous and in their opinion, the Applicant will not be able to meet its projected build-out schedule. The amount authorized to be discharged under the permit during the next five years is well beyond the reasonableness of the probable build-out schedule. In addition, the Applicant recently threatened to increase the density of the proposed development in retaliation for the local residents opposing the permit. Obviously, the Applicant does not know what his development plans are and further processing of the permit should be abated until the Applicant makes the necessary decisions regarding development density.

The Applicant's proposed treatment plant is intended to serve a single tract allegedly owned by the Applicant. Tapatio Springs Service Company owns and operates a sewage treatment plant with excess capacity and located within three miles of the proposed treatment facility. The Applicant's statement in the Technical Report that Tapatio's plant is at capacity is wrong and the statement regarding a 200 foot ridge ignores the fact that the Applicant plans to use many lift stations to transport raw sewage to Applicant's proposed plant. Tapatio Springs Service Company has an application pending with the TCEQ to merge with Kendall County Utility Company. The Applicant did not communicate with either Tapatio Springs Service Company or Kendall County Utility Company regarding the availability of service from this existing treatment plant. Tapatio Springs Service Company has agreed to provide wastewater service to an adjoining tract of land and a SOAH administrative law judge recently issued the recommendation that Tapatio Springs Service Company's application amend its sewer CCN to

include the adjoining area be approved. For this reason, among others, the Applicant has failed to use reasonable means to encourage and promote regionalization or to justify the need for the proposed facility in the technical report.

Tapatio is further opposed to the application because, based upon information filed by the Applicant with the TCEQ relating to a petition for creation of a MUD, the Applicant proposes to construct its treatment facility within an easement used for electric power transmission. This information conflicts with the information filed with the application pertaining to the wastewater treatment plant. Tapatio is concerned that the construction or operation of the plant may cause an interruption of service that Tapatio needs to operate its water and wastewater facilities. Tapatio is concerned that the Applicant has made contradictory representations, under oath, to the TCEQ. To the extent the Applicant now plans to move the location of the treatment plant, the representations made by the Applicant in the MUD creation petition are inconsistent.

The Applicant's petition for creation of a proposed district includes cost projections to construct and operate a no-discharge permit. A no-discharge alternative is not presented as part of the Applicant's request for the pending permit. As stated previously, Tapatio is concerned about this and possibly other contradictions made by Applicant in two separate applications pending with the TCEQ.

Tapatio is also opposed to the permit because the Applicant does not possess the technical, financial, and managerial experience needed to construct and operate the proposed facility. The Applicant has expressed intent, in writing, to transfer ownership of the facility and permit to another entity, but that entity is not a co-Applicant.

The Applicant has publicly stated that the water supply for the project will be obtained solely from the Guadalupe Blanco River Authority. Tapatio is unaware whether a contract for this water supply has been signed, but the contract between GBRA and Tapatio contains the following provision, which must be included in all contracts per GBRA policy:

Customer agrees that the supply of water to Customer under this Agreement for use on any lands within a CCN in Kendall County shall be conditioned, to the extent allowed by law, on compliance, in the design, construction and operation of any building, facility, development or other improvement on such lands or other use of or activities on such lands or the treatment, disposal or reuse of wastewater generated on such lands, with

all federal, state and local laws, rules and regulations relating to (i) protection of the quality of groundwaters or surface waters; (ii) recharge of aquifers; or (iii) drainage and flood control. Customer further agrees that, to the extent allowed by law, it will not supply any water supplied to Customer under this Agreement for use on any lands if and for so long as there is any material non-compliance, in the design, construction or operation of any building, facility, development or other improvement on such lands or other use of or activities on such lands or the treatment, disposal or reuse of wastewater generated on such lands, with any such laws, rules or regulations. At GBRA's request from time to time, Customer shall demonstrate to GBRA its compliance with the requirements of this Section 5.4. If Customer fails to comply with the requirements of this Section 5.4 with respect to Customer's supply of water for use on any lands, GBRA shall have available all remedies allowed by law including, without limitation, termination of this Agreement, or suspension or reduction of the supply of treated water under this Agreement until Customer demonstrates that compliance has been achieved; provided, however, GBRA will notify Customer of the violation and provide Customer a reasonable time to cure the violation. Customer will not be obligated to implement any requirement that GBRA does not require all other Project customers or participants to implement.

The Applicant's proposed project does not comply with the requirements of this provision because the treatment, disposal, and reuse of wastewater does not protect the quality of groundwater or surface waters, recharge of aquifers, or drainage and flood control. The application did not contain a geologic assessment of the receiving stream to determine whether geologic features forming conduits into the area groundwater supply.

The proposed project is located within a priority groundwater management area designated by the TCEQ. Designation was due, in part, to the potential for groundwater contamination. The proposed permit does not adequately protect the groundwater supply from contamination.

The preliminary layout for the sanitary sewer system as filed by Applicant with its request to create a municipal utility district does not plainly show how wastewater collected within one watershed will be piped to the single wastewater plant. These plans do not show the measures that need to be taken or that will be taken to reduce the risk of these major lift stations from overflowing.

The Applicant refers to Centerpoint Energy's reliability of service to explain the lack of needing back-up power. Centerpoint Energy does not serve the area, so back-up generator and alarms should be required. In addition, the Applicant refers to an "auto dialer" that monitors critical plant functions. This plant is located in a rural area, many miles away from any other plant that any certified operator hired by Applicant may operate and at least one hour from San Antonio. An "auto dialer" is not sufficient safeguard against the harm that will occur from any plant upset.

Due to the lack of proper notice and inconsistency in representations to the TCEQ, at this time Tapatio cannot describe any amendments to the application to address their concerns. Tapatio asks that the application be withdrawn or denied.

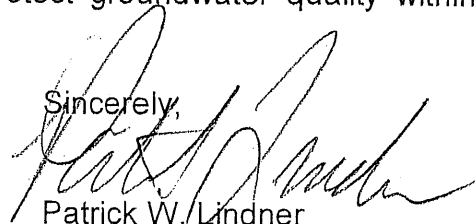
Tapatio submits that the following issues have been raised and not sufficiently addressed:

1. Whether the Applicant submitted a sufficiently complete application.
2. Whether the Applicant and the Chief Clerk complied with applicable notice requirements.
3. Whether the proposed facility and the proposed discharge will adversely impact surface water or groundwater, including drinking water and runoff issues.
4. Whether the proposed facility and discharge comply with the siting requirements in 20 TAC §309.12.
5. Whether the proposed facility will have controls and operators to prevent the discharge of improperly treated waste.
6. Whether the Applicant has used reasonable efforts to promote the policy of regionalization of wastewater service.
7. Whether the application should be denied under Texas Water Code Ann. §26.0282 based on need, including the availability of existing and proposed area wide or regional waste collection, treatment, and disposal systems.
8. Whether the proposed facility will produce nuisance odors, including whether an adequate buffer zone is proposed.

9. Whether the proposed permit is protective of the health and safety of nearby residents.
10. Whether the proposed permit will protect the use and enjoyment of property by nearby residents.
11. Whether a bond is necessary to ensure the safe operation and possible closure of the facility.
12. The Applicant's lack of experience in the operation of wastewater treatment facilities.
13. The Applicant's inconsistent answers in the application for the discharge permit and the petition to create a district.
14. The lack of the proposed facility operator being an Applicant.
15. The probable amount of wastewater that the Applicant will need to discharge from the facility during the initial five-year term of the permit.
16. Whether the discharge consistent with the proposed permit will cause a violation of the general criteria of the stream standards as set forth in 30 TAC Section 307.4, including but not limited to the aesthetic parameters, nutrients, salinity, and aquatic life uses and dissolved oxygen.

In conclusion, each of the several companies identified in the initial paragraph of this letter is an affected person opposed to the application and requests a contested hearing on the above-referenced application. The petitioner should be required to present evidence at a hearing to demonstrate that the legal requirements have been satisfied. The information provided by the Applicant and the proposed permit is not sufficient to protect groundwater quality within this priority groundwater management area.

Sincerely,



Patrick W. Lindner  
For the Firm

TCEQ Chief Clerk  
Protest of Lerin Hills STP  
October 23, 2006  
Page 7 of 7

PWL/re

cc: Richard Kammerman (Via U.S. Mail)  
Attorney for Lerin Hills, Ltd.  
7200 North Mopac, Ste. 150  
Austin, Texas 78731  
Jay Parker (Via U.S. Mail)  
Michael Shalit (Via U.S. Mail)



# TCEQ Public Meeting Form

Tuesday, October 24, 2006

Lerin Hills, Ltd.

Proposed TPDES Permit For Municipal Wastewater

Proposed Permit No. WQ00147121001

CHIEF CLERK'S OFFICE

OCT 26 AM 11:05

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Patrick Linder - spoke #7

PLEASE PRINT:

Name: Kendall Co. Utility Co., Tapatio Springs Services Co.

Address: P.O. Box 550

City/State: Boerne Tx Zip: 78006

Phone: (830) 537-5755

☒ Please add me to the mailing list.

Are you here today representing a municipality, legislator, agency, or group?

☐ Yes ☒ No

If yes, which one? \_\_\_\_\_

IF YOU WANT TO GIVE FORMAL COMMENT PLEASE ✓ BELOW

OPA RECEIVED

OCT 24 2006

AT PUBLIC MEETING

☒ I wish to provide formal oral comments.

☒ I wish to provide formal written comments at tonight's public meeting.

(Written comments may be submitted at any time during the meeting)

Please give this to the person at the information table. Thank you.